

DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

NANYA TECHNOLOGY CORP. and  
NANYA TECHNOLOGY CORP. U.S.A.,

Plaintiffs,

vs.

FUJITSU LIMITED and FUJITSU  
MICROELECTRONICS AMERICA, INC.,

Defendants.

Civil Case No. 06-00025

ORDER

Pending before the Court is a Motion to Extend Time, filed by defendant Fujitsu Microelectronics America, Inc. ("FMA") on November 20, 2006. (Docket No. 54.) Therein, FMA sought a 60-day extension of the scheduling conference set for December 12, 2006, and the deadline for submitting a proposed scheduling order and discovery plan. On November 28, 2006, the Court granted FMA's request for expedited briefing on its motion. (Docket No. 63.) On December 1, 2006, the Plaintiffs filed their response in opposition to the Motion to Extend Time. (Docket No. 64.) On December 5, 2006, FMA filed a reply to the Plaintiffs' objections. (Docket No. 73.) This matter having been fully briefed, the Court finds that, pursuant to Rule LR 7.1(e) of the Local Rules of Practice for the District Court of Guam, this matter is appropriate for decision without the need for oral argument. For the reasons set forth below, the Court hereby GRANTS the Motion to Extend in part.

**DISCUSSION**

One of FMA's grounds for requesting a continuance of the scheduling conference is to resolve the dispute over whether defendant Fujitsu Limited ("Fujitsu") was properly served with process. The below-signed judge granted a request to permit alternative service upon Fujitsu, and Fujitsu has since filed an objection to said order. The District Judge is scheduled to hear argument on the objection on January 17, 2006. FMA contends that because Fujitsu is not yet properly a party to this action, it would be "inefficient to have piecemeal scheduling discussions not involving all of the parties." The Court agrees.

The scheduling order to be entered by the Court will control the subsequent course of this action and can only be modified upon a showing of good cause. Thus, it is important that all parties participate fully in the drafting of said scheduling order. To proceed while service issues remain pending would not be practical or make good use of judicial resources. For instance, if the Court were to proceed with the scheduling conference on December 12 and the District Judge subsequently sustains Fujitsu's objection, Fujitsu could come in at a later time and ask that a new scheduling order be issued, essentially un-doing what has previously been done. The Court believes the better course would be to continue the scheduling conference for a short period, until January 30, 2007, to permit Fujitsu's service status to be resolved first.

Additionally, the Court finds the Plaintiffs will not be substantially prejudiced by a short extension of the scheduling conference and commencement of discovery. The original Complaint (Docket No. 1) was filed on September 13, 2006, and the Plaintiffs only filed a First Amended Complaint (Docket No. 24) on November 17, 2006, about three weeks ago. This amended complaint added a new party and new causes of action. A short continuance will give all parties, but especially the Defendants, more time to consider these new issues in preparing the proposed scheduling order.

Finally, the Court believes that a short continuance of this matter would enable all parties to focus their attentions on an upcoming settlement conference scheduled to take place in Tokyo, Japan on December 18, 2006. FMA has stated that "[a]lthough only one Japanese patent is at issue in the Japanese Litigation, the parties have been discussing settlement of their patent

disputes on a world-wide basis.” FMA Reply (Docket No. 73) at 2. The Court encourages the parties to use this opportunity to resolve their disputes without the need for further litigation.

### CONCLUSION

Accordingly, the Court grants in part the Motion to Extend Time. The scheduling conference presently calendared for December 12, 2006, is hereby moved to Tuesday, January 30, 2007, at 9:30 a.m. The Clerk of Court is directed to return all previously submitted proposed scheduling orders and discovery plans to the respective parties. The parties are directed to meet and confer in a good faith effort to prepare a proposed joint scheduling order and discovery plan, which shall be submitted no later than January 24, 2007.

SO ORDERED this 11<sup>th</sup> day December 2006.



**/s/ Joaquin V.E. Manibusan, Jr.**  
**U.S. Magistrate Judge**